

## APPENDIX A.

### Statutes.

28 U. S. C. 1254(1).

Cases in the Courts of Appeal may be reviewed by the Supreme Court by the following methods:

(1) By Writ of Certiorari granted upon Petition of any party to any civil or criminal case before or after rendition of judgment or decree.

---

### CONSTITUTION OF THE UNITED STATES — SEVENTH AMENDMENT.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

---

### ACT OF JUNE 19, 1934, 48 STAT. 1064, 28 U. S. C. SECTIONS 723, 723c.

"Be it enacted that the Supreme Court of the United States shall have the power to prescribe, by general rules for the District Courts of the United States, and for the Courts for the District of Columbia, the forms of process, writs, pleadings, and motions, and the practice and procedures in civil actions at law. Said rule shall neither abridge, enlarge nor modify the substantive rights of a litigant. They shall take effect six months after their promulgation, and thereafter all laws in conflict therewith shall be of no further force or effect.

"Sec. 2. The Court may at any time unite the general rules prescribed for it for cases in equity with those in

actions at law so as to secure one form of civil action and procedure for both: provided, however, that in such union of rules the right of trial by jury as at common law and declared by the Seventh Amendment to the Constitution shall be preserved to the parties inviolate. Such united rules shall not take effect until they shall have been reported to Congress by the Attorney General at the beginning of a regular session thereof and until after the close of such session."

---

FEDERAL RULES OF CIVIL PROCEDURE—U. S. C. A. 28,  
SECS. 2201 and 2202.

SECTION 2201.

In a case of actual controversy within its jurisdiction, except with respect to Federal taxes any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

SECTION 2202.

Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment.

FEDERAL RULES OF CIVIL PROCEDURE 8a—U. S. C. 28.

A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third party claim, shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends,

unless this court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded.

---

FEDERAL RULES OF CIVIL PROCEDURE 12b—U. S. C. 28.

Every defense, in law or fact, to a claim for relief in an pleading, whether a claim, counterclaim, cross-claim or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a claim upon which relief can be granted, (7) failure to join an indispensable party. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, he may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for

summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

---

FEDERAL RULES OF CIVIL PROCEDURE 13a—U. S. C. 28.

A pleading shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction, except that such a claim need not be so stated if at the time the action was commenced the claim was the subject of another pending action.

---

FEDERAL RULES OF CIVIL PROCEDURE 13b—U. S. C. 28.

A pleading may state as a counterclaim any claim against an opposing party not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim.

---

FEDERAL RULES OF CIVIL PROCEDURE 13g—U. S. C. 28.

A pleading may state as a cross-claim any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross-claim may include a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.

FEDERAL RULES OF CIVIL PROCEDURE 13h—U. S. C. 28.

When the presence of parties other than those to the original action is required for the granting of complete relief in the determination of a counterclaim or cross-claim, the court shall order them to be brought in as defendants as provided in these rules, if jurisdiction of them can be obtained and their joinder will not deprive the court of jurisdiction of the action.

---

28 U. S. C. FEDERAL RULES OF CIVIL PROCEDURE—Rule 38(a).

The right of trial by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of the United States shall be preserved to the parties inviolate.

---

FEDERAL RULES OF CIVIL PROCEDURE—U. S. C. A. 28, RULE 42a and 42b.

42(a) When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

42(b) The court in furtherance of convenience or to avoid prejudice may order a separate trial of any claim, cross-claim, counterclaim or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues.



28 U. S. C. FEDERAL RULES OF CIVIL PROCEDURE—  
RULE 57.

The procedure for obtaining a declaratory judgment pursuant to Title 28, U. S. C. Par. 2201, shall be in accordance with these rules, and the right of trial by jury may be demanded under the circumstances and in the manner provided in Rules 38 and 39. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar.